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# Medicare State Operations Manual Provider Certification

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Department of Health &  
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## HEADER SECTION NUMBERS

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### **NEW/REVISED MATERIAL--*EFFECTIVE DATE: February 15, 2002***

Section 4157, Federal Monitoring Surveys – Definition and Purpose, is revised to omit out-dated survey definitions, and describe the Federal Oversight and Support Survey (FOSS).

Section 4157.1, Federal Monitoring Surveys – Expectations and Responsibility, has been added to reflect new policy that supports the FOSS process.

**DISCLAIMER:** The revision date and transmittal number only apply to the redlined material. All other material was previously published in the manual and is only being reprinted.

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## 4157. FEDERAL MONITORING SURVEYS - DEFINITION AND PURPOSE

A. Definition.--A Federal Monitoring Survey (FMS) is a survey performed by the RO, or performed by designated contractors under the authority of Central Office or the ROs, of any Medicare/Medicaid participating provider and/or supplier. (See Chapter 6 for Special Procedures for Laboratories for CLIA.)

B. Purpose.--The RO conducts the survey to:

- o Monitor SA performance in interpreting and applying Federal standards;
- o Identify training and/or technical assistance needs of surveyors;
- o Identify problems that surveyors and/or providers encounter in implementing Federal regulations; and
- o Require correction of problems that exist in individual facilities or in individual surveys.

C. Scope of Survey.--

1. Full Survey.--A survey of all applicable COPs and standards for all types of Medicare/Medicaid providers and/or suppliers except SNFs/NFs and ICFs/MR. SNFs/NFs and ICFs/MR are described separately in 3 and 4 below.

2. Partial Survey.--A survey of selected Conditions and/or standards for any type of Medicare/Medicaid provider and/or supplier, except SNFs/NFs. SNFs/NFs are described separately in 3 below.

3. SNF/NF Surveys.--

a. Standard Survey.--A standard survey is composed of Tasks 1-7, and is a resident-centered, outcome-oriented inspection which relies on a case-mix stratified sample of residents to gather information about the facility's compliance with participation requirements. Based on the specific procedures detailed in appendix P, a standard survey assesses:

- o Compliance with residents' rights and quality of life requirements;
- o The accuracy of residents' comprehensive assessments and the adequacy of care plans based on these assessments;
- o The quality of services furnished, as measured by indicators of medical, nursing, rehabilitative care and drug therapy, dietary and nutrition services, activities and social participation, sanitation and infection control; and
- o The effectiveness of the physical environment to empower residents, accommodate resident needs, and maintain resident safety.

If in conducting the information gathering tasks of the standard survey the RO identifies a possible noncompliant situation related to any requirement, it investigates the situation to determine whether the facility is in compliance with the requirements.

b. Extended Survey.--The extended survey is conducted after substandard quality of care is found during a standard survey. If, based on performing the resident-centered tasks of the standard survey, the RO makes a determination that the facility has provided substandard quality of care in 42 CFR Part 483.13, Resident Behavior and Facility Practices; 42 CFR Part 483.15, Quality of Life;

and/or 42 CFR Part 483.25, Quality of Care, then an extended survey must be conducted within 14 days after completion of a standard survey. (See Appendix P, Part I, Section III, the extended and partial extended survey.)

c. Partial Extended Survey.--A partial extended survey is always conducted after substandard quality of care is found during an abbreviated standard survey. If, based on performing the abbreviated standard survey, the RO makes a determination that the facility has provided substandard quality of care in 42 CFR Part 483.13, Resident Behavior and Facility Practices; 42 CFR Part 483.15, Quality of Life; and/or 42 CFR Part 483.25, Quality of Care, then it must conduct a partial extended survey. (See Appendix P, Part I, Section III, the extended and partial extended survey.)

#### 4. ICF/MR Surveys.--

a. Fundamental Survey.--Conducted to determine the quality of services and supports received by individuals, as measured by outcomes for individuals and essential components of a system which must be present for the outcomes of active treatment to occur. Certain requirements are designated as fundamental and are reviewed first. The remaining requirements (that are not designated as fundamental) are supporting structures or processes that the facility must implement. A decision that a provider is in compliance with the fundamental requirements indicates an outcome-reviewed compliance determination with the non-fundamental requirements and associated COP. (Reference Transmittal No. 278 for specific tag numbers included primarily under 42 CFR 483.420, Client Protections, 42 CFR 483.440, Active Treatment Services, 42 CFR 483.450, Client Behavior and Facility Practices, 42 CFR 483.460, Health Care Services).

b. Extended Survey.--Conducted when standard-level deficiencies are found during the fundamental survey and the survey team has determined or suspects that one or more COPs examined during the fundamental survey are "not met." The team gathers additional information in order to identify the structural and process requirements that are "not met" and to support their condition-level compliance decision. The team reviews all of the requirements within the COP(s) for which compliance is in doubt.

c. Full Survey.--A survey of all applicable COPs and standards. A full survey is conducted by the State Agency at an initial survey and at the discretion of the RO, based on the RO's identification of concerns related to the provider's capacity to furnish adequate services.

#### D. Survey Definitions.—

1. Comparative Survey.--A Federal survey conducted within 2 months of the State survey to assess SA performance in the interpretation, application, and enforcement of Federal requirements. Whenever possible, CMS or its agent conducts comparative surveys within 30 days of the State survey.

2. Direct/Federal Jurisdictional Survey.--A Federal survey to assess provider performance and to determine whether a provider/supplier meets all applicable program requirements. It is used as the basis for approving a provider where the SA lacks jurisdiction. Federal personnel conduct surveys of health facilities of the Indian Health Services, Commonwealth of the Virgin Islands, and participating ESRD facilities in VA hospitals.

3. Validation Survey of Accredited Facilities.--A survey of an accredited entity, e.g., hospital, HHA, ASC, to validate the presumed compliance of the entity's deemed status and the survey process of the accrediting organization, recognized by CMS.

4. Validation (Comparative) Surveys of SNFs or NFs--On-site survey of SNFs or NFs in each State conducted within 2 months of the date of a State's standard or an extended survey. The survey shall be conducted using the same survey protocols as the State and is used to make inference about the adequacy and effectiveness of the State's surveys. Whenever possible, CMS conducts validation surveys within 30 days of the State survey.

5. Partnership Survey for ICFs/MR--An onsite ICFs/MR survey where the Federal RO surveyor(s) attends the State survey (initial, recertification, follow-up or complaint) to observe State surveyor team performance and to provide on-site training or technical assistance as needed.

6. Federal Oversight Support Survey (FOSS)--An on-site evaluation survey where the Federal surveyor(s) attends the State SNF/NF survey (initial, recertification, revisit and/or complaint) to observe and assess State surveyor team performance. The RO surveyor(s) may identify where training and/or technical assistance is needed to address identified performance needs while on-site as a result of the evaluation of outcomes. The outcomes include:

- ? Concern Identification;
- ? Sample Selection
- ? General Investigation;
- ? Kitchen and Food Service Investigation;
- ? Medication Investigation; and
- ? Deficiency Determination.

The CMS-2567 is also evaluated to identify whether deficient practices identified on-site are accurately reflected in the CMS-2567.

#### 4157.1. FOSS EXPECTATIONS AND RESPONSIBILITY

A. State Agency Responsibility-- The SA, once the survey schedule has been prepared, must forward this schedule to the RO at least two weeks prior to the earliest survey date. The schedule must include:

- ? Survey dates (including projected end date);
- ? Facility name and provider number;
- ? SA surveyor names or initials, with the identification of the team leader;
- ? Any use of specialty surveyors; and
- ? Type of survey (initial, recertification, complaint, etc.).

Once the survey schedule has been forwarded to the RO, and/or the SA has been notified of the selection for Federal oversight, the SA must notify the RO prior to the survey regarding any survey changes (for those selected for FOSS surveys). Changes may be defined as increasing or decreasing team size or composition, altering the survey date, or changing locations. SA justification should accompany the communication of such changes.

During a FOSS, the SA surveyors must inform the RO surveyors when they are or will be conducting certain functions during the survey process. These include, at a minimum:

- ? Interviews (with staff, family and /or residents);
- ? Team meetings; and
- ? Observations of care delivery.

The SA team will share all survey documentation with the RO surveyor(s) for review.

The SA team must determine if actual harm, substandard quality of care and/or immediate jeopardy are present during the information gathering tasks of the survey and/or during information analysis and decision-making.

Once the FOSS and SA survey have concluded, and the SA has documented the compliance decisions, the SA must forward the CMS-2567 to the RO at the same time the CMS-2567 is forwarded to the facility.

B. Regional Office Responsibility.--In most instances, the RO will notify the SA when a survey has been selected for a FOSS. However, the RO has the option to select a survey for an unannounced FOSS.

While conducting a FOSS, the RO will generally perform several steps in gathering information about survey team performance. These include:

- ? Observing surveyors;
- ? Talking with SA surveyors to clarify observations and interpretations;
- ? Reviewing facility documentation and surveyor notes;
- ? Conducting limited fact finding; and
- ? Attending survey team meetings.

The RO surveyor must be present at as many interviews as possible with residents and key facility staff. In addition, the RO surveyor must be present during a portion of the initial tour, all team meetings, investigative activities, and during resident care observations appropriate for his/her discipline.

The RO surveyor(s) may perform limited fact finding in order to assess the SA survey team's achievement of outcome measures associated with assessing a provider's compliance with Federal regulations. (See FOSS Manual for guidance.)

The RO team must ensure RO to SA ratios of 1:2, but not less than 1:3. The RO surveyors shall not remain onsite if the SA survey team has ended a day's observations and investigations. When the SA leaves the facility, the RO should also depart.

The RO team will debrief the SA survey team regarding the effectiveness of its survey behaviors in achieving the goals and outcomes of the survey following the completion of the survey, or within the first week the State survey team and RO surveyors return to their offices. The RO team will also document the SA team's performance on each outcome that was observable during the survey, and rate that performance by assigning the team a numerical score on each outcome. If appropriate, the RO team will identify SA team training needs.

Upon the conclusion of the FOSS, the RO team will provide SA management with written feedback at two key points:

? Within 30 days after the completion of the survey, the FOSS Rating and Documentation Form will be provided to the SA.

? Within 30 days after receipt of the facility copy of the CMS-2567 by the RO, the FOSS Evaluation Form for CMS-2567 will be provided to the SA.